

SENATE BILL 2799

By Burks

AN ACT to amend Tennessee Code Annotated, Title 68,
relative to waste disposal.

WHEREAS, the federal environmental protection agency has not proposed a comprehensive, uniform and protective regulatory framework for the disposal of coal combustion waste since the ash release disaster at the TVA Kingston fossil fuel power plant in December 2008; and

WHEREAS, the department of environment and conservation and the solid waste board have yet to propose new restrictions on the landfill disposal of coal combustion waste since the ash release disaster; and

WHEREAS, the current regulations allow the disposition of coal combustion waste to be used for construction fills without liners or other protective containment or monitoring requirements; and

WHEREAS, studies by the federal environmental protection agency now recognize increased adverse environmental impacts from coal combustion waste, including ash and air pollution scrubber systems; and

WHEREAS, the public health of Tennesseans is being adversely affected by the lack of proper containment in the landfill disposition and transportation of coal combustion waste; and

WHEREAS, because the filling of mine sites with coal ash has had catastrophic effects in other states, and the filling of quarries has resulted in discharges of leachate and the release of toxic pollutants into the groundwater, it is imperative that the department of environment and conservation carefully review the protective regulatory standards to be applied to landfills prior to approving any applications to accept coal combustion waste including but not limited to

applications to place such waste in former coal strip mine sites or other mines or quarries; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The department of environment and conservation shall not issue any permit for the disposal of coal combustion wastes prior to the effective date of regulations which conform regulations under the Solid Waste Disposal Act to the revised requirements for coal combustion waste disposal or transport adopted by the United States environmental protection agency (EPA) subsequent to January 1, 2010.

SECTION 2. Tennessee Code Annotated, Section 68-211-106, is amended by adding the following new language at the end of subdivision (a)(2):

This subdivision (a)(2) shall not apply to the disposition of coal combustion waste in landfills. "Coal combustion waste" includes fly ash, bottom ash, boiler slag, flue gas desulfurization sludge, coal refuse waste, and wastes from fluidized-bed combustion units.

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 211, Part 1, is amended by adding the following as a new section thereto:

§ 68-211-125. Notwithstanding any other law, rule or regulation to the contrary, all permits issued for the disposition of coal ash and other coal combustion wastes shall comply with the following criteria:

(1) Coal combustion wastes shall be disposed of only in Class I landfills.

No permit shall allow the use of coal ash for any agricultural use, any engineered uses as a feedstock for the production of a product, or disposition to wastewater treatment units.

(2) Prior to the issuance of a permit for a coal combustion waste disposal site the department shall conduct an investigation to determine that the site is

safe for the long term disposal of coal combustion waste without potential injury to surface waters, impounded waters, to groundwater quality, or to public or private drinking water supplies, and that there is no significant potential for contamination of such supplies. Notice to the public of a proposed permit shall describe the written results of such investigation and invite public comments on the department's report and determination. The report shall be included as part of the permit application and kept on file with such application by the department.

(3) No permit shall be granted for the disposal of coal combustion waste in a former mine or quarry where any of the following conditions exist:

(A) There is a connection between surface and underground mine workings and aquifers or groundwater through any pathway including, but not limited to, stress relief fracture systems and subsidence induced fracture flow; or

(B) There are site conditions conducive to the creation of acid or toxic-forming material that can solubilize constituents of concern from the waste.

(4) A permit for the disposal of coal combustion waste shall specify that no material or waste other than coal combustion waste shall be allowed in the disposal site. The department shall require analysis of the composition of the coal combustion waste proposed to be disposed of and shall require prompt notice of changes in the composition or volume of such waste that may affect the toxicity or may affect the solubility or other means of release of pollutants into the environment.

(5) A permit for the disposal of coal combustion waste shall contain provisions to assure safe containment during transport from the site of generation

to the disposal site to avoid spillage or airborne release and provisions to assure an adequate and timely emergency response to transport accident or accidental releases of coal combustion waste. The permit shall describe and regulate the means of transport, allowable routes, and containment of coal combustion waste during transport.

(6) No permit for the disposal of coal combustion wastes shall be granted without a concurrent permit governing the air quality impact of disposal operations under the permit and the transport of coal combustion wastes to the disposal site.

(7) The provisions of a permit for the disposal of coal combustion waste shall include a requirement that the generator of the waste remain liable for environmental injuries arising from the disposal of the waste.

SECTION 4. Tennessee Code Annotated, Section 68-211-106, is amended by deleting subsection (j) in its entirety and by substituting instead the following:

(j) The commissioner shall not issue a permit pursuant to this section for the disposal of coal ash or for the expansion of an existing coal ash disposal facility unless the plans for the disposal facility include the installation of a composite liner and a final cap.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.